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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,499	01/27/2004	Daniel Sherwin	206/03834	3489
7590 12/02/2004			EXAMINER	
William H. Dippert, Esq. Reed Smith LLP 29th Floor 599 Lexington Avenue New York, NY 10022-7650			MAHONEY, CHRISTOPHER E	
			ART UNIT	PAPER NUMBER
			2851	
DATE MAILED: 12/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/766,499

Applicant(s)

SHERWIN, DANIEL

Examiner

Christopher E Mahoney

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 10/204,647.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>Jan 27, 2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/204,647, filed on December 4, 2002.

### ***Double Patenting***

Claims 1-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,731,867. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patented claims anticipate the application claims. They claim substantially similar subject matter with one marked difference being that the patent claims a plurality of wheels and the application claims at least one counter rotating object.

U.S. Patent No. 6,731,867 recites a rotating (claim 1, line 5) transparent disc (claim 1, line 2) and at least one counter rotating object (plurality of wheels) whose rotation substantially cancels out angular momentum (claim 3, lines 3-4, claim 8) wherein the counter rotating object supports the disc (claim 1, line 3) and applies rotational force to the disc (claim 1, lines 4-5). Patent claim 6 recites the rubber pin, claim 9 the  $\pm 45^\circ$  to expected movement axes, claim 12, the wiring that connects the DC motor, 13-14 the snap connections.

Claims 15-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,731,867. 6,731,867 teaches the salient features of the claimed invention except for the rotational speeds.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize speeds of at least 2000 RPM to centrifugally remove water for the purpose of optimally keeping the lens clear. The applicant should note that it has been held that where the general working conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsui (U.S. Patent No. 5,050,975). Tsui teaches a lens protection mechanism comprising a rotating transparent disc 35 and at least one counter rotating object 32 whose rotation substantially cancels out angular momentum caused by the rotation of the disc. Since 32 are in contact with 35 and rotating opposite in direction to 35 the net angular momentum equals 0.

Claims 1, 3 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by MacPherson (U.S. Patent No. 2,298,063). MacPherson teaches a lens protection mechanism comprising a rotating transparent disc 1 and at least one counter rotating object 14/26/32 whose rotation substantially cancels out angular momentum caused by the rotation of the disc. The counter rotating object applies rotational force to the disc.

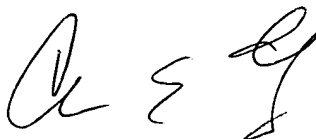
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher E Mahoney whose telephone number is (571) 272-2122. The examiner can normally be reached on 8:30AM-5PM, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'C E Mahoney', is positioned above the printed name.

Christopher E Mahoney  
Primary Examiner  
Art Unit 2851